

REMARKS

This responds to the final Office Action mailed on 25 November 2008. Applicant requests reconsideration of the application in view of the above amendments and the following remarks. Claims 1, 11, 16, 24, 26 and 38-42 are amended. New claim 44 has been added. The amendments and new claim are supported by at least FIG. 1 and the related description of the block and tackle orientation throughout the present application. No new matter has been added. Claims 1-28 and 38-44 remain pending in the application.

Claim Rejections – 35 U.S.C. § 103

Claims 1-28 and 38-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,662,681 to Nash et al. in view of U.S. Patent No. 5,021,059 to Kensey et al. Applicant respectfully traverses this rejection.

Claims 1 and 38 recite “the block and tackle is spaced proximally of the anchor, the sealing plug, and the first filament.” Claim 11 recites “the block and tackle is positioned proximally of the internal and external components and the first filament.” Claim 24 recites “a block and tackle positioned proximally of the anchor, the collagen sponge, and the biologically resorbable filament.”

The closure device of Nash et al. does not include a block and tackle that is positioned proximally of the anchor (or internal component), sealing plug (or external component), and the first filament (or biologically resorbable filament), as required by claims 1, 11, 24 and 38. Nash discloses a closure device 20 that includes a plug 30, an anchor member 32, a filament 34, a locking member 36, a tamper member 106, and a holding sleeve 110. The filament passes

through the holding sleeve 110 and the tamper member 106, through a first hole in the locking member 36, through a first set of holes in the plug 30, through a first hole in the anchor 32, back through a second hole in the anchor 32, through a second pair of holes in the plug 30, through a second hole in the locking member 36, and back through a third hole in the locking member 36 where the filament terminates in a knot 34E.

The locking member 36 and holding sleeve 110 are clearly not “positioned proximal of” the filament 34 as required by claims 1, 11, 24 and 38. Further, the filament 34 is the only filament disclosed by Nash. The device 20 is operable only if the filament extends through each of the plug 30, anchor member 32, filament 34, locking member 36, tamper member 106, and holding sleeve 110, and then doubles back through the anchor member 32 and plug 30 to the locking member 36. This arrangement permits locking of the locking member 36 in a set axial position relative to the plug 30 and anchor 32 after being advanced distally along the filament 34 with the tamper member 106 while pulling proximally on a proximal end of the filament 34. Nash actually teaches away from arranging the locking member 36 and holding sleeve “positioned proximal of” the filament 34 because the filament 34 must be accessible by the operator at a location proximal of the holding sleeve 110 for pulling proximally when moving the locking member 36 distally.

Kensey fails to remedy the deficiencies of Nash as it relates to claims 1, 11, 24 and 38. Kensey is cited only for its teaching of a pulley that provides a mechanical advantage. There is no teaching or suggestion by Kensey of “the block and tackle is positioned proximally of the anchor, the sealing plug, and the first filament,” as required by claims 1 and 38. Kensey likewise does not teach the limitations recited in claims 11 and 24. Therefore, Nash, alone or in

combination with Kensey, fails to disclose or render obvious every limitation of claims 1, 11, 24 and 38.

Claims 2-10, 12-23, 25-28 and 39-43 depend either directly or indirectly from claims 1, 11, 24 and 38, and are allowable for at least the reason they depend from an allowable base claim. Applicant submits that claims 2-10, 12-23, 25-28 and 39-43 are allowable for reasons in addition to their dependence upon an allowable base claim. For example, claim 16 recites “wherein the block and tackle comprises at least two loops of the second filament,” claim 26 recites “wherein the second filament . . . loops between the block and the cap at least once to create a pair of parallel lengths of the second filament,” and claim 39 recites “wherein the block and tackle includes a second filament that extends multiple times between a proximal end of the tissue puncture closure device and a longitudinally movable plate.” Nash and Kensey fail to disclose or suggest the use of first and second filament members, or a second filament member having the features recited in claims 16, 26 and 39. Thus, claims 16, 26 and 39 are allowable for this additional reason.

New Claim

New claim 44 has been added as an independent claim. Claim 44 recites, *inter alia*, “the second filament having at least two length portions arranged side-by-side.” Applicant submits that claim 44 is allowable, and requests favorable consideration thereof.

Conclusion

For at least the foregoing reasons, Applicant believes that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicant respectfully requests a favorable action on the merits. If there remain any unresolved issues, Applicant invites the Examiner to telephone the undersigned attorney to expedite the handling of this matter.

Applicant expressly disclaims all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

Respectfully submitted,

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